

Steven Whalen
108 Knollwood Road
Newington, CT 06111

**STATE OF CONNECTICUT
BOARD OF EXAMINERS FOR NURSING**

State of Connecticut
Department of Public Health

vs.

Steven Whalen, RN
Registered Nurse License No. E52047
Respondent.

CASE PETITION NO. 960529-10-039

MEMORANDUM OF DECISION

PROCEDURAL BACKGROUND

The Board of Examiners for Nursing (hereinafter the "Board") was presented by the Department of Public Health (hereinafter the "Department") with a Statement of Charges dated June 14, 1996¹ (Department Exhibit 1). The Statement of Charges alleged violations of certain provisions of Chapter 378 of the General Statutes of Connecticut by Steven Whalen (hereinafter the "Respondent") which would subject the Respondent's Registered Nurse license to disciplinary action pursuant to the General Statutes of Connecticut.

The Board scheduling a hearing for October 16, 1996. The hearing took place on October 16, 1996, in Room 2-A, Legislative Office Building, Capitol Avenue, Hartford, Connecticut.

Each member of the Board involved in this decision attests that he/she was present at the hearing or has reviewed the record, and that this decision is based entirely on the record, the law, and the Board's specialized professional knowledge in evaluating the evidence.

¹ The Statement of Charges was presented to the Board as part of a Motion for Summary Suspension on June 14, 1996. The Department's Motion for Summary Suspension was denied by the Board.

FACTS

Based on the testimony given and the exhibits offered into evidence, the Board makes the following Findings of Fact:

1. Steven Whalen, hereinafter referred to as the Respondent, was issued Registered Nurse License Number E52047 on August 24, 1989. The Respondent was the holder of said license at all times referenced in the Statement of Charges. (Department Exhibit 1-A)
2. The Respondent was given due notice of the hearing. Department Exhibit 2 indicates that a notice of hearing was delivered to the Respondent's attorney by certified mail on June 25, 1996.
3. The Respondent was present during the hearing and was represented by counsel. (Hearing Transcript, October 16, 1996, pp. 2-3)
4. The Respondent submitted an answer to the Statement of Charges. (Respondent's Exhibit B-1)
5. From on or about 1989 to May 6, 1996, the Respondent was employed as a registered nurse at Hartford Hospital, Hartford, Connecticut. (Department Exhibit 1-B12) (Hearing Transcript, October 16, 1996, pp. 22-23)
6. Beginning on or about April 1995, while working as a registered nurse at Hartford Hospital, the Respondent diverted for his own personal use the controlled substances Morphine, Dilaudid, and Demerol. The Respondent accomplished the diversion of the controlled substances by signing out doses of the medications for patients who did not have orders for the medication. In addition, the Respondent diverted excess from doses after administration to patients. (Department Exhibits 1-B) (Respondent's Exhibits B-1, B-3.1-3.6)
7. The Respondent self-administered, intravenously, the controlled substances which he diverted. The Respondent used the controlled substances while on duty, prior to the end of his shift, and/or

while at home. (Department Exhibit 1-B) (Respondent's Exhibit B-3.3) (Hearing Transcript, October 16, 1996, pp. 53-55)

8. From on or about May 10, 1996 to June 17, 1996, the Respondent received inpatient and outpatient chemical dependency treatment at BlueRidge Center, Bloomfield, Connecticut. Since June 17, 1996, the Respondent has attended aftercare treatment at BlueRidge Center and has been receiving counseling from an individual therapist. In addition the Respondent has been participating in Alcoholics Anonymous and the support group Nurses for Nurses. (Respondent's Exhibit A, B-2, B-3, B-4)
9. On or about July 22, 1996, the Respondent began employment as a registered nurse at East Hartford Dialysis Center, Inc., East Hartford, Connecticut. (Respondent's Exhibits B-5.1)

DISCUSSION AND CONCLUSIONS

In consideration of the above Findings of Fact, the following conclusions are rendered:

Steven Whalen held a valid Registered Nurse license in the State of Connecticut at all times referenced in the Statement of Charges.

The hearing was held in accordance with Chapters 54 and 368a of the General Statutes of Connecticut as well as §19-2a-1 through §19-2a-30 of the Regulations of Connecticut State Agencies. The Statement of Charges and the hearing process provided the Respondent with the opportunity to demonstrate compliance with all lawful requirements for the retention of his license as required by the General Statutes of Connecticut §4-182(c).

PARAGRAPH 2 of the Statement of Charges alleges that between approximately April 1995 and May 1996, while working as a registered nurse at Hartford Hospital, Hartford, Connecticut, the Respondent:

- "a. diverted Dilaudid, Demerol and morphine;
- b. failed to completely, properly and/or accurately document medical or hospital records; and/or,
- c. falsified one or more Controlled Substance Receipt Records."

PARAGRAPH 3 of the Statement of Charges alleges that between approximately April 1995 and May 1996, the Respondent has abused or excessively used Dilaudid, Demerol, and/or Morphine.

The Respondent admits these charges. (Answer: Respondent's Exhibit B-1)

The General Statutes of Connecticut §20-99(b) prohibits conduct which fails to conform to the accepted standards of the nursing profession, which includes "... (2) illegal conduct, incompetence or negligence in performing usual nursing functions... (5) abuse or excessive use of drugs, including alcohol, narcotics or chemicals... (6) fraud or material deception in the course of professional services or activities...."

Based on its findings and the Respondent's admission, the Board concludes that the Respondent's conduct as alleged in Paragraphs 2 and 3 of the Statement of Charges is proven. The Board concludes that said conduct fails to conform to the accepted standards of the nursing profession and constitutes violations of the General Statutes of Connecticut §20-99(b)(2)(5) and (6). Therefore, the Respondent is subject to disciplinary action pursuant to §19a-17 of the General Statutes of Connecticut.

ORDER

Pursuant to its authority under §19a-17 and §20-99 of the General Statutes of Connecticut, the Board of Examiners for Nursing hereby orders the following:

1. That for Paragraphs 2 and 3 of the Statement of Charges, the Respondent's registered nurse license, No. E52047, is placed on probation for a period of four (4) years.
2. If any of the following conditions of probation are not met, the Respondent's registered nurse license may be subject to disciplinary action pursuant to §19a-17 of the General Statutes of Connecticut.
 - A. During the period of probation the Board shall pre-approve the Respondent's employment or change of employment within the nursing profession.

- B. The Respondent shall provide a copy of this Memorandum of Decision to any and all employers if employed as a nurse during the probationary period. The Board shall be notified in writing by any employer(s), within thirty (30) days of the commencement of employment, as to receipt of a copy of this Memorandum of Decision.
- C. The Respondent shall not administer, count or have access to controlled substances, or have responsibility for such activities in the course of nursing duties during the first eighteen (18) months of working as a nurse during the probationary period.
- D. If employed as a nurse the Respondent shall cause monthly employer reports to be submitted to the Board by his immediate supervisor during the entire period of probationary. Employer reports shall commence with the report due on the first business day of March 1997.
- E. The employer reports cited in Paragraph D above shall include documentation of the Respondent's ability to safely and competently practice nursing. Employer reports shall be submitted directly to the Board at the address cited in Paragraph P below.
- F. Should the Respondent's employment as a nurse be voluntarily or involuntarily terminated, the Respondent and/or his employer shall notify the Board, within seventy-two (72) hours, of such termination.
- G. At his expense, the Respondent shall engage in therapy and counseling for chemical dependency with a licensed or certified therapist during the entire period of probation.
- H. The Respondent shall provide a copy of this Memorandum of Decision to his therapist. The Board shall be notified in writing by his therapist, within thirty (30) days of the effective date of this Decision, as to receipt of a copy of this Memorandum of Decision.

- I. The Respondent shall cause monthly evaluation reports to be submitted to the Board by his therapist during the entire probationary period. Therapist reports are due commencing with the report due on the first business day of March 1997.
- J. The therapist reports cited in Paragraph I above shall include documentation of dates of treatment, and an evaluation of the Respondent's progress, including alcohol and drug free status, and ability to safely and competently practice nursing. Therapist reports shall be submitted directly to the Board at the address cited in Paragraph P below.
- K. At his expense the Respondent shall be responsible for submitting to random urine and/or blood screens for alcohol and drugs for the entire probationary period, as ordered by his therapist, and/or personal physician, and/or the Board of Examiners for Nursing. Random alcohol/drug screens shall be legally defensible in that chain of custody procedures must be followed throughout the screening process. The Respondent shall be responsible for immediately notifying the laboratory, his therapist and/or personal physician and the Board of Examiners for Nursing of any drug(s) he is taking.

There must be at least two (2) such random alcohol/drug screens monthly during the first one and one half (1½) years of the probationary period, and at least three (3) random alcohol/drug screens monthly during the final two and one half (2½) years of the probationary period.

Random alcohol/drug screens shall be negative for the presence of alcohol and drugs. All positive results shall be confirmed by the Gas Chromatograph Mass Spectrometer (GC/MS) testing method. Chain of custody documentation must accompany all laboratory reports and/or the laboratory reports must indicate that chain of custody procedures have been followed.

Random alcohol/drug screens must include testing for the following substances:

- Amphetamines
- Barbiturates
- Benzodiazepines
- Cannabinoids (THC Metabolites)
- Cocaine
- Meperidine (Demerol)
- Methadone
- Methaqualone
- Opiates (Metabolites)
- Phencyclidine (PCP)
- Propoxyphene
- Ethanol (alcohol)

Reports of random alcohol and drug screens shall be submitted directly to the Board, at the address cited in Paragraph P below, by the Respondent's therapist, personal physician or the testing laboratory. Reports of said random alcohol/drug screens are due on the first business day of the month commencing with the reports March 1997.

- L. The Respondent shall not obtain for personal use and/or use alcohol or any drug that has not been prescribed for him, for a legitimate purpose, by a licensed health care practitioner authorized to prescribe medications. The Respondent shall not abuse and/or excessively use any drugs that are prescribed for a legitimate medical purpose.

- M. The Respondent is hereby advised that the ingestion of poppy seeds may produce a positive drug screen result indicating the presence of opiates/morphine. For that reason, any food substance containing poppy seeds should be avoided during the probationary period. In the event that a drug/alcohol screen is positive for opiates/morphine, the ingestion of poppy seeds shall not constitute a defense to such positive screen.

- N. The Connecticut Board of Examiners for Nursing must be informed in writing prior to any change of employment.

- O. The Connecticut Board of Examiners for Nursing must be informed in writing prior to any change of address.

P. All correspondence and reports are to be addressed to:

**DEPARTMENT OF PUBLIC HEALTH
BOARD OF EXAMINERS FOR NURSING
LEGAL OFFICE - MONITORING & COMPLIANCE**
410 Capitol Avenue, MS #12LEG
P. O. Box 340308
Hartford CT 06134-0308

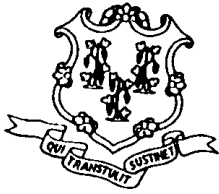
3. Any deviation from the terms of probation, without prior written approval by the Board of Examiners for Nursing, will constitute a violation of probation which will be cause for an immediate hearing on charges of violating this Order. Any finding that the Respondent has violated this Order will subject the Respondent to sanctions under §19a-17(a) and (c) of the General Statutes of Connecticut, including but not limited to, the revocation of his license. Any extension of time or grace period for reporting granted by the Board of Examiners for Nursing shall not be a waiver or preclude the Board's right to take subsequent action. The Board of Examiners for Nursing shall not be required to grant future extensions of time or grace periods. Notice of revocation or other disciplinary action shall be sent to the Respondent's address of record (most current address reported to the Licensure and Registration Section of the Division of Health Systems Regulation of the Department of Public Health or the Board of Examiners for Nursing).
4. This Memorandum of Decision becomes effective, and the four (4) year probation of the Respondent's registered nurse license shall commence, on February 15, 1997.

The Board of Examiners for Nursing hereby informs the Respondent, Steven Whalen, and the Department of Public Health of the State of Connecticut of this decision.

Dated at Hartford, Connecticut this 5th day of February 1997.

BOARD OF EXAMINERS FOR NURSING

By *Tyler A. Wade*



STATE OF CONNECTICUT

DEPARTMENT OF PUBLIC HEALTH

February 28, 2001

Steven Whalen, RN
108 Knollwood Road
Newington, Connecticut 06111

Re: Memorandum of Decision
Petition No. 960529-010-039
License No. E52047
[REDACTED]

Dear Mr. Whalen:

Please accept this letter as notice that you have satisfied the terms of your license probation, effective 2/15/01.

Notice will be sent to the Department's Licensure and Registration section to remove all restrictions from your license related to the above-referenced Memorandum of Decision.

Please be certain to retain this letter as documented proof that you have completed your license probation.

Thank you for your cooperation during this process.

Very truly yours,

Bonnie Pinkerton, RNC
Division of Health Systems Regulation

cc: D. Tomassone
J. Wojick



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